

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, Linda Breathitt,
and Nora Mead Brownell.

California Independent System Operator Corporation Docket No. ER01-889-007

California Power Exchange Corporation Docket No. ER01-902-004

San Diego Gas & Electric Company,
Complainant,

v.

Sellers of Energy and Ancillary Services
Into Markets Operated by the California
Independent System Operator and the
California Power Exchange,

Respondents, et al.

Docket No. EL00-95-041

Docket No. EL00-98-039

Docket No. EL00-104-006

Docket No. EL00-107-007

Docket No. EL01-1-007

ORDER REJECTING REQUEST FOR REHEARING

(Issued September 12, 2001)

Dynegy Power Marketing, Inc., El Segundo Power LLC, Long Beach Generation LLC, Cabrillo Power I LLC and Cabrillo Power II LLC (jointly, "Dynegy") filed a request for rehearing of the Commission's order denying rehearing issued June 13, 2001 (June 13 Order), in this proceeding.¹ In this order, we reject Dynegy's request for rehearing of the June 13 Order.

¹California Independent System Operator Corporation, et al., 95 FERC ¶ 61,391 (2001).

Background

In an order issued April 6, 2001 (April 6 Order), the Commission granted a motion filed by a group of California generators to require the California Independent System Operator Corporation (ISO) to comply with the Commission's order on creditworthiness issued February 14, 2001.² In the April 6 Order, the Commission directed the ISO to ensure the presence of a creditworthy buyer for all power that third-party suppliers provide to utility distribution companies (UDCs) that do not meet the creditworthiness provisions of the ISO tariff.

In the June 13 Order, the Commission, in denying a request for rehearing of the April 6 Order, clarified a misinterpretation by the ISO and other parties. The Commission stated that, contrary to the interpretation of these parties, the April 6 Order did not direct the ISO tariff to be amended to excuse suppliers from complying with ISO emergency dispatch orders whenever they believe that a UDC or Scheduling Coordinator fails to meet the creditworthiness standards. Furthermore, the Commission explained that the ISO tariff does not allow suppliers to ignore emergency dispatch orders. The Commission also explained that there was nothing unjust or unreasonable in providing that suppliers must comply with ISO emergency dispatch orders while enforcing their right to credit assurance by filing complaints with the Commission, rather than by ignoring ISO orders issued in the middle of an emergency.

Rehearing Request

Dynegy asserts that the Commission erred in the June 13 Order by limiting sellers to filing complaints if a seller complies with an ISO emergency dispatch order but the ISO does not enforce the creditworthiness standard and the transaction is not backed by a creditworthy entity. Although Dynegy notes that it has "physically supplied power in response to emergency dispatch instructions and will do so in the future," it complains that it should not be forced to sell to non-creditworthy suppliers.³ Alternatively, Dynegy requests that the Commission give expedited treatment to any pleadings on creditworthiness, and that if the ISO continues in refusing to comply with Commission

²See California Independent System Operator Corporation, et al., 95 FERC ¶ 61,026 (2001) (April 6 Order). See also California Independent System Operator Corporation, et al., 94 FERC ¶ 61,132 (2001).

³Request at 2.

orders on creditworthiness, the Commission should institute enforcement proceedings and relieve suppliers of the requirement to respond to emergency dispatch requests.⁴

Discussion

We will reject Dynegy's request for rehearing as an improper rehearing request of an order denying rehearing. The Commission, in the June 13 Order, merely clarified a misinterpretation by the ISO and other parties by reminding them that the existing ISO tariff, in effect at the time of the April 6 Order, requires power suppliers to respond to emergency dispatch orders, and provides them the opportunity to file a complaint before the Commission to enforce their right to credit assurance. The Commission neither changed the result of the April 6 Order nor otherwise modified the April 6 Order in this regard. Accordingly, we will reject Dynegy's request for rehearing of the June 13 Order.⁵

The Commission orders:

The request for rehearing filed by Dynegy is hereby rejected, as discussed in the body of this order.

By the Commission.

(S E A L)

David P. Boergers,
Secretary.

⁴These alternative requests are beyond the scope of this proceeding and are more appropriately considered in other proceedings.

⁵The Commission will not grant a request for rehearing of an order on rehearing unless the order on rehearing modified the result of the initial order in a significant way. *Southwestern Public Service Company*, 65 FERC ¶ 61,088 at n. 14 (1993) (citing *Town of Norwood v. FERC*, 906 F.2d 772, 774-75 (D.C. Cir. 1990) and *Southern Natural Gas Company v. FERC*, 877 F.2d 1066, 1072-73 (D.C. Cir. 1989)).